

REMARKS

This is in response to the Office Action mailed April 7, 2003. In the Office Action, all claims 1-16 were pending and were rejected. With this response, claims 1-3 and 10-15 are canceled; new claim 17 is added; and the remaining claims are unchanged in the application.

Pages two and three of the Office Action indicated that independent claim 4, among others, was rejected under 35 U.S.C. § 103(a) as being unpatentable over Olson et al. (U.S. Patent No. 6,050,145) in view of Koen (U.S. Patent No. 5,461,922).

U.S. Patent No. 6,050,145, assigned to the Assignee of the present invention, discloses a pressure transmitter with a high pressure isolator mounting assembly. The transmitter includes an isolator mounting assembly which isolates process fluid represented by arrow 24 from entering the interior of cavity 22. "A quantity of fill fluid provided in a passageway 28 transmits the process fluid pressure to a pressure sensor 30 provided in a sensor cavity 32, which is also filled with the fill fluid." See column 2, lines 43-51. The Office Action concedes on page three that Olson et al. do not disclose a filler material, constructed of elastomer, being disposed between the isolator diaphragm and the sensor diaphragm.

The Office Action turns to the teachings of Koen (U.S. Patent No. 5,461,922) and asserts that the pressure transducer disclosed therein provides a pressure transfer medium 21 that transmits pressure from diaphragm 30 to sensor device 23. The Office Action then asserted that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Olson et al. according to the teachings of Koen for the purpose of, **provide a filler material to hermedically seal a pressure transfer medium between a gel-cup and a diaphragm.**"

Respectfully, Applicants traverse the rejection of independent claim 4 in view of the following. Specifically,

Applicants submit that the proffered suggestion by the Office Action for combining the teachings of Olson et al. with that of Koen is insufficient to support a prima facie case of obviousness. The isolator system set forth by Olson et al. already provides an hermetic seal between the process fluid and the pressure sensor itself. Thus, one skilled in the art would not turn to additional resources to solve a problem already solved by the primary reference. Further, the Court of Appeals for the Federal Circuit has recently provided guidance with respect to rejections under 35 U.S.C. § 103. Specifically, the Court of Appeals has indicated that "particular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed." In Re Lee, 61 U.S.P.Q.2d 1430, 1433 (Cafc. 2002) (citing In Re Kotzab, 55 U.S.P.Q.2d 1313, 1317 (Cafc. 2000)). Thus, Applicants respectfully submit that the Office Action has failed to set forth a showing that a prima facie case of obviousness because it has failed to indicate why one of ordinary skill in the art would turn to Koen to modify Olson et al. Accordingly, Applicants respectfully submit that independent claim 4 is allowable over Koen and Olson et al., individually, and that the combination of such references is improper. Moreover, Applicants respectfully submit that dependent claims 5-9 and 17 are allowable as well by virtue of their dependency, either directly, from an allowable independent claim.

Independent claim 16 was also rejected on pages two and three of the Office Action under 35 U.S.C. § 103. Claim 16 recites a pressure transmitter that includes many elements that are also recited in independent claim 4. However, the pressure sensor module is replaced with means-plus-function language in independent claim 16. Since the meaning of the means-plus-function element must be obtained by reference to the specific pressure sensor means disclosed in Applicants' Specification, Applicants

respectfully submit that independent claim 16 is allowable over Olson et al. and Koen for the same reasons set forth above with respect to independent claim 4.

With this Amendment, new claim 17 is submitted for consideration and allowance. New claim 17 specifically deals with material selection and is supported in the Specification on page 5 at lines 20-24. Allowance of dependent claim 17 is respectfully requested.

In conclusion, Applicants respectfully believe that the entire application is now in condition for allowance. Reconsideration and favorable action are respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

WESTMAN, CHAMPLIN & KELLY, P.A.

By: 

Christopher R. Christenson, Reg. No. 42,413
Suite 1600 - International Centre
900 Second Avenue South
Minneapolis, Minnesota 55402-3319
Phone: (612) 334-3222 Fax: (612) 334-3312

CRC:ajm

MARKED-UP VERSION OF REPLACEMENT CLAIMS

Please cancel claims 1-3 and 10-15.

Please add new claim 17

17. (New) The transmitter of claim 4 wherein all materials of the transmitter are selected in accordance with requirements of Semiconductor Equipment and Materials International standards (SEMI).